

Exhibit 1

From: Zach Savage <ZSavage@susmangodfrey.com>
Sent: Monday, June 10, 2024 1:57 PM
To: Paven Malhotra; Jennifer B. Maisel; NYT-AI-SG-Service@simplelists.susmangodfrey.com; Steven Lieberman; Ian B. Crosby
Cc: OpenAICopyright; openaicopyrightlitigation.lwteam@lw.com; KVP-OAI; NewYorkTimes_Microsoft_OHS@orrick.com; Annette Hurst; Jacobson, Jeffrey S.; Briant, Jared B.; DailyNews-AI-RFEM
Subject: RE: NYT and Daily News Consolidation Motion

[EXTERNAL]



Paven,

The Times does not oppose coordination of its case with the *Daily News* case for discovery and pre-trial purposes, so long as such coordination does not decouple the determination of the threshold fair use issue in The Times's case from the determination of that issue in the consolidated class cases before Judge Stein.

Thanks,
Zach

From: NYT-AI-SG-Service@simplelists.susmangodfrey.com <NYT-AI-SG-Service@simplelists.susmangodfrey.com> **On Behalf Of** Paven Malhotra
Sent: Friday, June 7, 2024 11:31 PM
To: Jennifer B. Maisel <jmaisel@rothwellfigg.com>; NYT-AI-SG-Service@simplelists.susmangodfrey.com; Steven Lieberman <slieberm@rothwellfigg.com>; Ian B. Crosby <icrosby@SusmanGodfrey.com>
Cc: OpenAICopyright <OpenAICopyright@mofo.com>; openaicopyrightlitigation.lwteam@lw.com; KVP-OAI <KVPOAI@keker.com>; NewYorkTimes_Microsoft_OHS@orrick.com; Annette Hurst <ahurst@orrick.com>; Jacobson, Jeffrey S. <jeffrey.jacobson@faegredrinker.com>; Briant, Jared B. <jared.briant@faegredrinker.com>; DailyNews-AI-RFEM <DailyNews-AI-RFEM@rothwellfigg.com>
Subject: RE: NYT and Daily News Consolidation Motion

EXTERNAL Email

Jen,

We appreciate your recognition that the Daily News case should be consolidated for discovery and pre-trial purposes with the New York Times case.

OpenAI is ready to conduct a Rule 26f conference promptly. We understand Microsoft's counsel is not available Monday-Wednesday. If Daily News is free on Thursday or Friday, we can try to carve out time for that (as Elana mentioned in her email to you earlier today).

Apart from the various issues that we will need to discuss in the Rule 26f conference, though, is the distinct question of consolidation and the schedule for the consolidated case. That should be a separate conversation—particularly because it involves the New York Times.

I understand you serve as counsel for the New York Times. What is the New York Times' position on consolidation?

As for a case schedule, we think two months is too short particularly given the number of parties in the Daily News lawsuit. Judge Stein typically sets the close of fact discovery at least six months out for new cases. We believe that should be the schedule used for the consolidated cases.

Please advise if your two sets of clients agree.

Thanks,

--Paven

Paven Malhotra

Keker, Van Nest & Peters LLP
633 Battery Street
San Francisco, CA 94111-1809
415 676 2238 direct | 415 391 5400 main
pmalhotra@keker.com | [vcard](#) | keker.com

From: Jennifer B. Maisel <jmaisel@rothwellfigg.com>

Sent: Friday, June 7, 2024 3:52 PM

To: Paven Malhotra <PMalhotra@keker.com>; NYT-AI-SG-Service@simplelists.susmangodfrey.com; Steven Lieberman <slieberm@rothwellfigg.com>; Ian B. Crosby <icrosby@SusmanGodfrey.com>

Cc: OpenAICopyright <OpenAICopyright@mofo.com>; openaicopyrightlitigation.lwteam@lw.com; KVP-OAI <KVPOAI@keker.com>; NewYorkTimes_Microsoft_OHS@orrick.com; Annette Hurst <ahurst@orrick.com>; Jacobson, Jeffrey S. <jeffrey.jacobson@faegredrinker.com>; Briant, Jared B. <jared.briant@faegredrinker.com>; DailyNews-AI-RFEM <DailyNews-AI-RFEM@rothwellfigg.com>

Subject: Re: NYT and Daily News Consolidation Motion

[EXTERNAL]

Paven,

As you know, since Monday I have reached out to you and your colleagues multiple times on behalf of the *Daily News* Plaintiffs in an effort to hold a Rule 26(f) conference during which we can discuss, *inter alia*, the appropriate schedule for that case. We have still not received from Microsoft and OpenAI a firm date for such a conference.

The *Daily News* Plaintiffs have no objection to a consolidation of that case with *The New York Times* case for discovery and pre-trial purposes, but only if the parties in the *Daily News* case can come to agreement on a schedule that contains only the most modest extension (we are thinking two months) of the dates in the schedule that Judge Stein set (over your objections) for *The New York Times* case. For this reason, I urge again that the parties in the *Daily News* case hold a Rule 26(f) conference on Monday so that we can see if we can reach agreement on this (and other) issues.

BR,
Jen



Jennifer Maisel (she/her)
Rothwell, Figg, Ernst & Manbeck, P.C.
901 New York Avenue, N.W.
Suite 900 East
Washington, D.C. 20001

Main Number: 202.783.6040
Direct Number: 202.626.3548
Fax Number: 202.783.6031
Email: jmaisel@rothwellfigg.com
Website: www.rothwellfigg.com

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From: Paven Malhotra <PMalhotra@keker.com>
Sent: Friday, June 7, 2024 4:26 PM
To: NYT-AI-SG-Service@simplelists.susmangodfrey.com <NYT-AI-SG-Service@simplelists.susmangodfrey.com>; Jennifer B. Maisel <jmaisel@rothwellfigg.com>; Steven Lieberman <slieberm@rothwellfigg.com>; Ian B. Crosby <icrosby@SusmanGodfrey.com>
Cc: OpenAICopyright <OpenAICopyright@mofo.com>; openaicopyrightlitigation.lwteam@lw.com <openaicopyrightlitigation.lwteam@lw.com>; KVP-OAI <KVPOAI@keker.com>; NewYorkTimes_Microsoft_OHS@orrick.com <NewYorkTimes_Microsoft_OHS@orrick.com>; Annette Hurst <ahurst@orrick.com>; Jacobson, Jeffrey S. <jeffrey.jacobson@faegredrinker.com>; Briant, Jared B. <jared.briant@faegredrinker.com>
Subject: NYT and Daily News Consolidation Motion

Counsel,

As previously mentioned, OpenAI intends to file a motion to consolidate the Daily News and New York Times matters for discovery and pre-trial purposes. The motion will request the consolidated matter proceed on a later schedule set in the Daily News case. We intend to file the motion early next week. We assume you oppose the consolidation request but if that is not correct, please let us know by 5pm on Monday. Microsoft has informed us that it will separately join in the request to consolidate the two matters and have both matters proceed on the later schedule set in the Daily News case.

Regards,
Paven

Paven Malhotra
Keker, Van Nest & Peters LLP
633 Battery Street
San Francisco, CA 94111-1809
415 676 2238 direct | 415 391 5400 main
pmalhotra@keker.com | [vcard](#) | keker.com

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